

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|-----------------|---|-----------------------------------|-----------------------|
| Application No. | : | 10/519546                         | Confirmation No. 2578 |
| Applicant       | : | Trevor Ross Suggate               |                       |
| Filed           | : | August 23, 2005                   |                       |
| TC/A.U.         | : | 3671                              |                       |
| Examiner        | : | Gary S. Hartmann                  |                       |
| Title           | : | MODULAR PLATFORM, WALKWAY OR RAMP |                       |
| Docket No.      | : | BEL-19148                         |                       |
| Customer No.    | : | 088954                            |                       |

**APPELLANT'S BRIEF**  
**(37 CFR § 43.37)**

Mail Stop Appeal Brief – Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

This Appeal Brief is filed within seven months of the Notice of Appeal that was mailed on November 25, 2009. Accordingly, applicant respectfully requests and petitions that the response date be extended, for five months to June 25, 2010. Please charge our Deposit Account No. 18-0160, Our Order No. BEL-19148 in the amount of \$270.00 to cover the fee referenced in 37 CFR § 41.20(b)(2) and \$1,175.00 to cover the fee referenced in 37 CFR § 1.17(a)(5). If any additional fees are due for this filing, please charge such additional required fees to our Deposit Account No. 18-0160, Our Order No. BEL-19148.

This brief contains the items under the following headings in the order set forth below:

- I. REAL PARTY IN INTEREST
- II. RELATED APPEALS AND INTERFERENCES
- III. STATUS OF CLAIMS
- IV. STATUS OF AMENDMENTS
- V. SUMMARY OF CLAIMED SUBJECT MATTER
- VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL
- VII. ARGUMENTS
- VIII. CLAIMS APPENDIX
- IX. EVIDENCE APPENDIX (none)
- X. RELATED PROCEEDINGS APPENDIX (none)

I. REAL PARTY IN INTEREST

Trevor Ross Suggate, residing at 125 Rivergum Drive, Albury 2640, New South Wales AU is the real party in interest and the owner of all right, title, and interest to the invention throughout the world. No assignment has been recorded.

**II. RELATED APPEALS AND INTERFERENCES**

Applicant does not know of any related appeals and/or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

### III. STATUS OF CLAIMS

#### A. Total Number of Claims in Application

Fifteen (15) claims are currently pending in this application.

#### B. Status of the Claims

1. Claims previously cancelled: Claim 1.
2. Claims withdrawn from consideration, but not cancelled: Claims 3-8 and 10-16.
3. Claims pending: Claims 2-29.
4. Claims allowed: None.
5. Claims rejected: Claims 2-29.
6. Claims objected to: None.
7. Claims indicated as allowable if the § 112 rejections are overcome: None.

#### C. Claims on Appeal

The claims on appeal are: Claims 2, 9, and 17-29.

**IV. STATUS OF AMENDMENTS**

Claim 30 was proposed after the final Office Action mailed on May 29, 2009.

However, for purposes of appeal, claim 30 was not entered.

## V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 2 of the present application relates to a deck support which is adjustable to support a deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12) of a platform, walkway or ramp (Spec.: Para. [0082]; Figs. 1, 2: 10) at a predetermined elevation. The deck support includes a prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) and a corresponding elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15). An engagement between the prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) and the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15) retains the prefabricated movable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) to the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15) while allowing longitudinal movement of the prefabricated movable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) relative to the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d, 7: 14, 15). The prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) has an extension (Spec.: Para. [0091]; Figs. 2b, 2e, 3a, 3b: 34) arranged to directly support the deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12) laterally of the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15) by contact with an underneath surface of the deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12). The prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) is locatable at predetermined longitudinal positions relative to the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14,

15).

Claim 19 of the present application relates to a method of erecting a platform, walkway or ramp (Spec.: Para. [0082]; Figs. 1, 2: 10) that includes providing a plurality of deck supports which are adjustable to support a deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12) of a platform, walkway or ramp (Spec.: Para. [0082]; Figs. 1, 2: 10) at a predetermined elevation. Each of the deck supports includes a prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) and a corresponding elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15). Engagement between the prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) and the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15) retains the prefabricated movable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) to the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15) while allowing longitudinal movement of the prefabricated movable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) relative to the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15). The prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) has an extension (Spec.: Para. [0091]; Figs. 2b, 2e, 3a, 3b: 34) arranged to directly support the deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12) laterally of the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15) by contact with an underneath surface of the deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12). The prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) is locatable at predetermined longitudinal positions relative to the elongate member (Spec.: Para. [0083];

*Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15). The method also includes adjusting the deck supports by longitudinally moving the prefabricated moveable members (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) relative to corresponding elongate members (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15) and positioning and orientating the deck supports so that their extensions (Spec.: Para. [0091]; Figs. 2b, 2e, 3a, 3b: 34) are arranged to support corresponding portions of a deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12) at a desired elevation. The method also includes placing the deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12) onto the extensions (Spec.: Para. [0091]; Figs. 2b, 2e, 3a, 3b: 34) so that the extensions (Spec.: Para. [0091]; Figs. 2b, 2e, 3a, 3b: 34) support corresponding portions of the deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12) to form an erected platform, walkway or ramp (Spec.: Para. [0082]; Figs. 1, 2: 10).*

Independent claim 20 of the present application relates to a modular apparatus for constructing a platform, walkway or ramp (Spec.: Para. [0082]; Figs. 1, 2: 10). The modular apparatus includes a plurality of prefabricated deck segments (Spec.: Para. [0087]; Figs. 2, 2b, 2d, 2e: 32) arranged to collectively form a deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12) of a platform, walkway or ramp (Spec.: Para. [0082]; Figs. 1, 2: 10) and a plurality of deck supports for supporting the prefabricated deck segments (Spec.: Para. [0087]; Figs. 2, 2b, 2d, 2e: 32) to form the deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12). Each deck support is adjustable to support a deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12) of a platform, walkway or ramp (Spec.: Para. [0082]; Figs. 1, 2: 10) at a predetermined elevation and each deck support includes a prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) and a

corresponding elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15). An engagement between the prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) and the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15) retains the prefabricated movable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) to the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15) while allowing longitudinal movement of the prefabricated movable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) relative to the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15). The prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) has an extension (Spec.: Para. [0091]; Figs. 2b, 2e, 3a, 3b: 34) arranged to directly support the deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12) laterally of the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15) by contact with an underneath surface of the deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12). The prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) is locatable at predetermined longitudinal positions relative to the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15).

Independent claim 24 of the present application relates to a platform, walkway or ramp assembly. The assembly includes a plurality of deck supports which are each adjustable to support a deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12) of a platform, walkway or ramp (Spec.: Para. [0082]; Figs. 1, 2: 10) at a predetermined elevation. Each deck support includes a prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) and a corresponding elongate member (Spec.:

Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15). An engagement between the prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) and the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15) retains the prefabricated movable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) to the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15) while allowing longitudinal movement of the prefabricated movable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) relative to the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15). The prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) has an extension (Spec.: Para. [0091]; Figs. 2b, 2e, 3a, 3b: 34) arranged to directly support the deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12) laterally of the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15) by contact with an underneath surface of the deck (Spec.: Paras. [0041], [0083]; Figs. 1, 2: 12) and the prefabricated moveable member (Spec.: Para. [0091]; Figs. 2c, 2d, 3a, 3b, 7, 16a-16d, 22a, 22b: 56, 58) are locatable at predetermined longitudinal positions relative to the elongate member (Spec.: Para. [0083]; Figs. 1, 2b, 2c, 2d, 2e, 4c, 4d: 14, 15) and a plurality of prefabricated deck segments (Spec.: Para. [0087]; Figs. 2, 2b, 2d, 2e: 32). The prefabricated deck segments (Spec.: Para. [0087]; Figs. 2, 2b, 2d, 2e: 32) are supported by the extensions (Spec.: Para. [0091]; Figs. 2b, 2e, 3a, 3b: 34) of the deck supports to form a platform, walkway or ramp (Spec.: Para. [0082]; Figs. 1, 2: 10).

**VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Claims 2, 9, 19-22 and 24-29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenwood
2. Claims 17-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenwood in view of Richardson
3. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Greenwood in view of Shomaker

## **VII. ARGUMENTS**

### **A. The Rejection of Claims 2, 9, 19-22 and 24-29 under 35 U.S.C. § 103(a) as being unpatentable over Greenwood should be reversed**

The prior art relied upon by the Examiner to reject each of independent claims 2, 19, 20, and 24 included only Greenwood. In order to succinctly and clearly present arguments Applicant first comments on Greenwood as it relates to the rejection. The rejection is then briefly summarized, and finally Applicant's arguments are presented.

#### **1. Greenwood**

Greenwood discloses a dismantlable porch installation. According to column 11 to 10, the invention which is the subject of Greenwood is readily adapted as the means for providing access to the entryway of a mobile home. Referring also to column 1 and lines 14 to 17, the porch installation can be set up beside a mobile home level with its elevated threshold to provide an open area immediately outside the door of the mobile home.

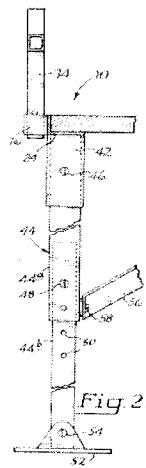
The Installation includes an Elevated Deck Assembly 10. The Assembly 10 is supported by Legs 18 (Column 1 lines 60 – 61). Referring to the remainder column 1 and column 2, lines 1 – 9 and 16 – 21, Paneling 40 of the Assembly 10 rests on a Border Frame 22. According to column 2, lines 16 – 19 the Paneling 40 comprises one or more panel pieces disposed in a plane. The Border Frame 22 is positioned, via Sockets 42, directly over the Legs 18 and is supported by the Legs 18.

Legs 18 are also described, at column 2 and line 22, as Leg Structures 18. According to this description Legs 18 comprise an Upper Section 44a and a Lower Section

44b. Referring to column two and lines 46 – 51, the Lower Section 44b is telescopically received within the Upper Section 44a and may be placed at different positions with respect to it.

Diagonal Pieces 34 and 36 and a Center Tie Plate 38 are described at column 2, lines 10 - 15. Referring to column 2 lines 54 – 60, the Center Tie Plate 38 is detachably connected to Upper Sections 44a by Struts 56. The Struts 56 are fastened to the Center Tie Plate 38. These components are described as “introducing rigidity” into the border Frame 22. Furthermore, the purpose of Struts 56 is not specifically described but column 4, lines 28 – 29, describe a “Bracing Structure” associated with the “Deck Frame”.

The detachable connection provided between lower ends of the Struts 56 and the alleged Movable Member 44a is best shown in Fig. 2 below and is Detachable Connection 58.



The Detachable Connection 58 appears to be a screw-type fastener from the depiction in Fig. 2. Also, a washer or similar spacer element (no reference number) is shown interposed between the Strut 56 and the Upper Leg Section 44a.

The fourth paragraph of column 4 of Greenwood describes disassembly of the

Installation. The second last paragraph of that same column describes how the installation is readily set up at a new location. According to this description, “differences in elevation of the ground are taken care of through adjustments in the lengths of the various leg structures”.

## **2. The Rejection**

The rejection concern two features of Independent Claims 2, 19, 20, and 24 of the present application:

- i. a prefabricated moveable member
- ii. support of the deck

Feature ii comprises, in more detail, an extension arranged to support the deck laterally of an elongate member. The relationship between the Elongate Member of feature ii and feature i recited above is defined by the Independent Claims as follows: an engagement between the Prefabricated Moveable Member and Elongate Member retains the Prefabricated Moveable Member to the Elongate Member while allowing longitudinal movement of the Prefabricated Moveable Member relative to the Elongate Member.

Concerning feature i, the Examiner states that Upper Section 44a is a Prefabricated Movable Member as defined by the Independent Claims. In relation to feature ii, Applicant appreciates the Examiner’s concession that connected Struts 56 and Plate 38 don’t support Paneling 40 as required by the Independent Claims. Concerning this concession the Examiner states though, that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have supported the deck with the extension/plate

combination (56, 38) in order to increase the load bearing capacity of the deck. The Examiner further states in an Advisory Action that issued 15 September 2009, that it is within ordinary skill to have considered, if required, using the plate 38 to support the Paneling 40.

Applicant responds separately below in relation to features i and ii recited above.

## **2.1 Prefabricated Moveable Member**

The Examiner recites two related arguments in support of his opinion that Greenwood discloses feature i above. Both appear at page 5 of the Final Office Action and in summary are

- i. Lower Section 44b rests on the ground and any relative movement between Upper Section 44a and Lower Section 44b therefore results in a change in height of Upper Section 44a
- ii. Because the Prefabricated Moveable Member and the Elongate Member move relative to each other it would be remiss to issue a claim that defines only one of these Members as being a Moveable Member

These arguments are considered separately below.

### **2.1.1 Relative Movement between Upper Section 44a and Lower Section 44b Results in a Change in Height of Upper Section 44a**

Referring to 1 above, Applicant respectfully submits that telescopic adjustment of Lower Section 44b relative to Upper Section 44a is not to adjust the height of Paneling 40 of the Elevated Deck Assembly 10, but instead to account for unlevel ground. This is supported by the disclosure in Greenwood, which is also explained at 1 above, that Lower Section

44b is telescopically received within the Upper Section 44a and may be placed at different positions with respect to it.

Furthermore, referring again to 1 above, Applicant respectfully submits that it is clear that the assembled Elevated Deck Assembly 10, including Upper Sections 44a, is a rigid structure. This rigid structure remains essentially static while Lower Sections 44b slide telescopically relative to it. To interpret otherwise would mean that this entire rigid structure, excluding only Lower Sections 44b, moves vertically relative to corresponding and independent Lower Sections 44b. Not only would this movement be very difficult to achieve, Applicant respectfully submits that it is not disclosed or suggested by Greenwood.

As explained at 1 above, Greenwood relates to a porch installation and discloses its application to mobile home access. Elevated thresholds of any given mobile home have a set elevation. The required elevation of the Elevated Deck Assembly 10 is determined by this set threshold elevation. For reasons explained in the preceding two paragraphs Applicant respectfully submits that the Elevated Deck Assembly 10, including upper sections 44a is not placed at the set threshold elevation by vertical movement relative to Lower Sections 44b. Instead, the rigged Elevated Deck Assembly 10, including Upper Sections 44a is most likely propped at the set threshold elevation. Applicant assumes that Lower Sections 44b are secured relative to Upper Sections 44a by Detachable Fasteners 48 during propping. For reasons explained in the preceding two paragraphs Applicant also assumes the Detachable Fasteners 48 are then removed to allow Lower Sections 44b to be moved telescopically relative to Upper Sections 44a to account for unlevel ground.

Using the terminology of the Claims of the present application, Applicant respectfully submits that The Prefabricated Movable Member is therefore Lower Section 44b and not

Upper Section 44a.

### **2.1.2 It would be Remiss to Issue a Claim that Defines Only One Member as Being a Moveable Member**

The Examiner recites that the Prefabricated Movable Member of the Independent Claims of the present application “is moveable relative to the other part, which it clearly is”. The “other part” that the Examiner references is the Elongate Member of the Independent Claims. At the end of the same paragraph the Examiner recites that both of these Members (i.e. the Prefabricated Moveable Member and the Elongate Member) move relative to one another. In relation to this second recitation the Examiner asserts that he: “would be remiss to issue a claim based upon which one was considered to be the moveable member when they each move relative to one another”. The words “one” and “each” of this excerpt refer as appropriate to either the Prefabricated Moveable Member or both that Member and the Elongate Member.

Applicant respectfully understands that the Examiner argues: that because the Prefabricated Moveable Member and the Elongate Member move relative to each other it would be remiss to issue a claim that defines only one of these Members as being a Moveable Member. Applicant respectfully submits that according to this argument relative movement of any two members comprises movement of both members which is not necessarily the case.

### **2.2 Support of the Deck**

Paneling 40 of the Assembly 10 corresponds to the Deck of the Independent Claims

of the present application. Referring to 1 above, the Paneling 40 rests on a Border Frame 22. The Border Frame 22 is positioned over Legs 18 and supported by them. The legs 18 correspond to the Elongate Member of the Independent Claims. The Border Frame 22 therefore supports a Deck (the Paneling 40) directly over an Elongate Member. The Claims require support laterally of an Elongate Member.

As explained above, Applicant appreciates the Examiner's concession that the Struts 56 and Plate 38 don't provide lateral support to the Paneling 40 as required by the Independent Claims. Furthermore, while Greenwood specifically discloses support in relation to the Border Frame 22; in relation to this support or any other support Greenwood doesn't suggest that

- i. other support should or could be provided, either by Struts 56 and Plate 38 or otherwise
- ii. the Struts 56 and Plate 38 should or could provide an additional support function
- iii. additional lateral support is necessary, or even that it should or could be considered
- iv. there are any deficiencies in the support that it discloses

The purpose of the Struts 56 and Plate 38 are explained above at 1. Applicant respectfully submits that it is clearly for bracing and increasing rigidity. This is consistent with the Detachable Connection 58 described at 1 above. The Detachable Connection 58 does not appear to be of a type suitable for allowing the Struts 56 to support the deck (the function alleged by the Examiner). Instead, Applicant respectfully submits that the struts 56 would tend to pivot downwardly if any vertical force were applied by the deck downward

onto the tie plate 38. If the Struts 56 of Greenwood were providing any supporting function to the deck, Applicant asserts that some other type of connection would be illustrated.

This purpose is also consistent with definitions of the word “strut” as used in the context that it is used in Greenwood.

In light of items i – iv, and the purpose of Struts 56 and plates 38 recited in the two paragraph immediately preceding, Applicant respectfully submits that the Examiner’s proposal regarding Struts 56 and Plate 38 of Greenwood

- v. introduces an additional, new and unnecessary function for these components
- vi. is contrary to the clear teaching (or at least implication) of Greenwood, particularly
  - a) when an embodiment of Paneling 40 comprises a plurality of panels as explained above at 1. If the Center Tie Plate 38 and the Struts 56 were to support the Paneling 40, Applicant respectfully submits that some other configuration would be required to provide support when the deck is formed of a plurality of panels, otherwise only a single one of the panels (e.g., a central panel extending between frame elements 24, 26) would receive any support.
  - b) due to the non-supporting Detachable Connection 58 between the Struts 56 and the Leg Sections 44a. This Detachable Connection 58 does not appear to be of a type suitable for allowing the struts 56 to support the deck (the function alleged by the Examiner). Instead, Applicant respectfully submits that if any vertical force were applied by the Deck to the Center Tie Plate 38, the struts 56 would tend to pivot downwardly. If the struts 56 of Greenwood were supplying any supporting function to the Deck, Applicant asserts that some other type of connection would be illustrated.

- vii. is not disclosed or foreshadowed by Greenwood, or even suggested as a possible option
- viii. is redundant
- ix. isn't required to address a deficiency disclosed by Greenwood

As explained above, the Examiner argues that it is within ordinary skill to have considered, if required, using the plate 38 to support the Paneling 40. However, for reasons explained at least at v, vi, viii and ix, Applicant respectfully submits that this proposed use is clearly not required. Irrespective, referring to vi and viii, Applicant respectfully submits that a person of ordinary skill would not have considered the proposed use because it is contrary to the clear, or at least implied, disclosure and teaching of Greenwood.

Furthermore, in proposing use of plate 38 and connected Struts 56 in this manner, Applicant respectfully submits that the Examiner conjures disclosure by Greenwood of an entirely new invention: support laterally of, rather than directly over, an Elongate Member. It is well accepted law that hindsight should not be applied to bridge a gap between a disclosure such as that of Greenwood and a claimed invention.

**B. The Rejections of Claims 17-18 under 35 U.S.C. § 103(a) as being unpatentable over Greenwood in view of Richardson**

In order to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the cited references must teach or suggest each and every limitation or element of the rejected claims. *In re Vaeck*, 947 F.2d 488, 473, 20 USPQ2d 1438, 1440 (Fed. Cir. 1991). The rejections of claims 17-18 are in error and should be reversed because each and

every limitation of the claimed invention is not taught or suggested by the combination of Greenwood and Richardson.

Claims 17-18 depend either directly or indirectly from claim 2. Thus, all arguments pertaining to claim 2 are equally applicable to this claim and are herein incorporated by reference.

C. **The Rejection of Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Greenwood in view of Shomaker**

In order to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the cited references must teach or suggest each and every limitation or element of the rejected claims. *In re Vaeck*, 947 F.2d 488, 473, 20 USPQ2d 1438, 1440 (Fed. Cir. 1991). The rejection of claim 23 is in error and should be reversed because each and every limitation of the claimed invention is not taught or suggested by the combination of Greenwood and Shomaker.

Claim 23 depends indirectly from claim 20. Thus, all arguments pertaining to claim 20 are equally applicable to this claim and are herein incorporated by reference.

## CONCLUSION

The prior art rejections of the cited claims should be reversed because the cited references do not, either alone or in combination, disclose or suggest the invention defined by claims 2, 9, and 17-29. The rejections of claims 2, 9, 19-22, and 24-29 under 35 U.S.C. 103(a) as being obvious over Greenwood are in error, as are the rejections of claims 17-18 for being obvious over Greenwood in view of Richardson and the rejection of claim 23 for being obvious over Greenwood in view of Shomaker.

For the reasons set forth herein, the rejections of the claims 2, 9, and 17-29 of the present application are in error and must be reversed.

Respectfully submitted,

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## **VIII. CLAIMS APPENDIX**

1. (Cancelled).
2. (Previously Presented) A deck support which is adjustable to support a deck of a platform, walkway or ramp at a predetermined elevation, the deck support comprising a prefabricated moveable member and a corresponding elongate member, an engagement between the prefabricated moveable member and the elongate member retaining the prefabricated movable member to the elongate member while allowing longitudinal movement of the prefabricated movable member relative to the elongate member, the prefabricated moveable member having an extension arranged to directly support the deck laterally of the elongate member by contact with an underneath surface of the deck and wherein the prefabricated moveable member is locatable at predetermined longitudinal positions relative to the elongate member.
3. (Withdrawn) A deck support as claimed in claim 2 wherein the prefabricated moveable member comprises a slideable member arranged to slide axially relative to the elongate member.
4. (Withdrawn) A deck support as claimed in claim 3 wherein the slideable member is a collar, sleeve or other tubular member or partly tubular member having a section corresponding to a partial section of a tubular member.

5. (Withdrawn) A deck support as claimed in claim 3 wherein the slidable member has a hole formed in one or more of its walls arranged for alignment with corresponding longitudinally spaced holes of the elongate member and receipt of a locating pin.

6. (Withdrawn) A deck support as claimed in claim 3 wherein the deck support comprises a slideable member position at opposite ends of said extension.

7. (Withdrawn) A deck support as claimed in claim 2 wherein the extension comprises a support bearer.

8. (Withdrawn) A deck support as claimed in claim 7 wherein the deck support has two or more support bearers that extend from a common slideable member.

9. (Original) A deck support as claimed in claim 2 wherein a foot extends from an end of the elongate member, the foot being pivotable relative to the elongate member to accommodate for sloping supporting surfaces.

10. (Withdrawn) A deck support as claimed in claim 2 wherein the prefabricated moveable member further comprises a handrail support arranged to support one or more prefabricated handrails above the deck.

11. (Withdrawn) A deck support as claimed in claim 10 wherein the handrail support member is arranged to retain a lower end of a handrail upright of said

prefabricated handrail.

12. (Withdrawn) A deck support as claimed in claim 10 wherein the handrail support is arranged to receive two adjacent handrail uprights of corresponding adjacent prefabricated handrails.

13. (Withdrawn) A deck support as claimed in claim 10 wherein the handrail support comprises a collar, sleeve or other tubular member or a partly tubular member having a section corresponding to a partial section of a tubular member.

14. (Withdrawn) A deck support as claimed in claim 12 wherein the handrail support is arranged for inclination of said handrail upright relative to said elongate member, in a plane which is substantially normal to said extension.

15. (Withdrawn) A deck support as claimed in claim 12 wherein the extension covers a lower end of said handrail support to prevent passage of said handrail upright therethrough.

16. (Withdrawn) A deck support as claimed in claim 10 further comprising two or more further handrail supports positioned at predetermined positions along the extension.

17. (Previously Presented) A deck support as claimed in claim 2 wherein the elongate member comprises a roof support for supporting a roof.

18. (Original) A deck support as claimed in claim 17 wherein the elongate member is arranged to slideably receive a roof support upright for abutment of a lower end of the roof support upright against an upper edge of said prefabricated moveable member.

19. (Previously Presented) A method of erecting a platform, walkway or ramp comprising:

providing a plurality of deck supports which are adjustable to support a deck of a platform, walkway or ramp at a predetermined elevation, each of the deck supports comprising a prefabricated moveable member and a corresponding elongate member, an engagement between the prefabricated moveable member and the elongate member retaining the prefabricated movable member to the elongate member while allowing longitudinal movement of the prefabricated movable member relative to the elongate member, the prefabricated moveable member having an extension arranged to directly support the deck laterally of the elongate member by contact with an underneath surface of the deck and the prefabricated moveable member being locatable at predetermined longitudinal positions relative to the elongate member;

adjusting the deck supports by longitudinally moving said prefabricated moveable members relative to corresponding elongate members;

positioning and orientating the deck supports so that their extensions are arranged to support corresponding portions of a deck at a desired elevation; and

placing the deck onto the extensions so that the extensions support corresponding portions of the deck to form an erected platform, walkway or ramp.

20. (Previously Presented) A modular apparatus for constructing a platform, walkway or ramp, said modular apparatus comprising:

a plurality of prefabricated deck segments arranged to collectively form a deck of a platform, walkway or ramp; and

a plurality of deck supports for supporting the prefabricated deck segments to form said deck; wherein

each deck support is adjustable to support a deck of a platform, walkway or ramp at a predetermined elevation, each deck support comprising a prefabricated moveable member and a corresponding elongate member, an engagement between the prefabricated moveable member and the elongate member retaining the prefabricated movable member to the elongate member while allowing longitudinal movement of the prefabricated movable member relative to the elongate member, the prefabricated moveable member having an extension arranged to directly support the deck laterally of the elongate member by contact with an underneath surface of the deck, the prefabricated moveable member being locatable at predetermined longitudinal positions relative to the elongate member.

21. (Original) A modular apparatus as claimed in claim 20 further comprising one or more prefabricated handrails, each prefabricated handrail comprising one or more rails supported by one or more handrail uprights and being arranged for attachment to one or more said deck supports.

22. (Previously Presented) A modular apparatus as claimed in claim 20 wherein one or more edges of said prefabricated deck segments are folded to provide adjacent first and second angular regions.

23. (Original) A modular apparatus as claimed in claim 22 wherein, in use, the first angular region extends upwardly, substantially normally of a plane in which the deck segment lies and the second angular region extends downwardly and away from the deck segment to form an enclosed angle with the first angular region of approximately 45°.

24. (Previously Presented) A platform, walkway or ramp assembly, said assembly comprising:

a plurality of deck supports which are each adjustable to support a deck of a platform, walkway or ramp at a predetermined elevation, each deck support comprising a prefabricated moveable member and a corresponding elongate member, an engagement between the prefabricated moveable member and the elongate member retaining the prefabricated movable member to the elongate member while allowing longitudinal movement of the prefabricated movable member relative to the elongate member, the prefabricated moveable member having an extension arranged to directly support the deck laterally of the elongate member by contact with an underneath surface of the deck and the prefabricated moveable member being locatable at predetermined longitudinal positions relative to the elongate member; and

a plurality of prefabricated deck segments;

wherein said prefabricated deck segments are supported by the extensions of said

deck supports to form a platform, walkway or ramp.

25. (Original) A platform, walkway or ramp assembly as claimed in claim 24 further comprising one or more prefabricated handrails, each prefabricated handrail comprising one or more rails supported by one or more handrail uprights and being arranged for attachment to one or more said deck supports.

26. (Previously Presented) A deck support as claimed in claim 2 further comprising a locating pin for locating the prefabricated movable member relative to the elongate member at one of the predetermined longitudinal positions and thereby preventing longitudinal movement of the prefabricated movable member relative to the elongate member.

27. (Previously Presented) A method as claimed in claim 19 further comprising:  
providing a locating pin;  
adjusting the deck supports to position the prefabricated movable member at one of the predetermined longitudinal positions; and  
engaging the locating pin with the prefabricated movable and elongate members to locate the prefabricated moveable member relative to the elongate member and thereby prevent longitudinal movement of the prefabricated movable member relative to the elongate member.

28. (Previously Presented) A modular apparatus as claimed in claim 20 further comprising a locating pin for locating the prefabricated movable member relative to the elongate member at one of the predetermined longitudinal positions and thereby preventing longitudinal movement of the prefabricated movable member relative to the elongate member.

29. (Previously Presented) A platform, walkway or ramp assembly as claimed in claim 24 further comprising a locating pin for locating the prefabricated movable member relative to the elongate member at one of the predetermined longitudinal positions and thereby preventing longitudinal movement of the prefabricated movable member relative to the elongate member.

IX. EVIDENCE APPENDIX

None

X. RELATED PROCEEDINGS APPENDIX

None